

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**CELLULAR COMMUNICATIONS  
EQUIPMENT LLC,**

Plaintiff,

v.

**HTC CORPORATION, et al.,**

Defendants.

**Civil Action No. 6:13-cv-507**

**JURY TRIAL DEMANDED  
(Consolidated Lead Case)**

**CELLULAR COMMUNICATIONS  
EQUIPMENT LLC,**

Plaintiff,

v.

**ZTE CORPORATION, et al.**

Defendants.

**Civil Action No. 6:13-cv-511**

**JURY TRIAL DEMANDED**

**JOINT MOTION TO DISMISS WITHOUT PREJUDICE**

Plaintiff Cellular Communications Equipment LLC (“CCE”) and Defendants ZTE Corporation, ZTE (USA), Inc., ZTE Solutions, Inc., HTC Corporation, HTC America Inc., AT&T Mobility LLC, Cellco Partnership d/b/a Verizon Wireless, T-Mobile USA, Inc., and T-Mobile US, Inc. (collectively, “Defendants”) move jointly to dismiss without prejudice constituent Civil Action Nos. 6:13-cv-507 and 6:13-cv-511 (collectively, the “507 and 511 cases”). Defendants Sprint Solutions, Inc., Sprint Spectrum L.P., and Boost Mobile, LLC do not oppose.

Recent discovery revealed a dispute among the parties to this Joint Motion concerning CCE’s standing to file the 507 and 511 cases on June 25, 2013. CCE maintains that it took

ownership of all right, title and interest in U.S. Patent No. 8,055,820 (the “’820 patent”) on January 25, 2013. Defendants to the 507 and 511 cases maintain that CCE did not take ownership of the ’820 patent until at least July 15, 2013.<sup>1</sup>

The parties to this Joint Motion seek to resolve the question of CCE’s standing to bring the 507 and 511 cases without involving the Court unnecessarily in disputed motion practice. Thus, the parties seek dismissal of the 507 and 511 cases without prejudice. Upon dismissal, CCE shall amend, with Defendants’ agreement, its complaints in recently-filed Civil Action Nos. 6:16-cv-475 and 6:16-cv-476 (the “475 and 476 cases”)<sup>2</sup> to incorporate the allegations as to the ’820 patent and U.S. Patent No. 7,941,174 from the 507 and 511 cases. The parties agree that the dismissals of the 507 and 511 cases do not operate as an adjudication on the merits under Fed. R. Civ. P. 41(a)(1)(B).

Once CCE amends the complaints as described above, the parties agree: (i) to cooperate to avoid duplicative discovery relating to the 507 and 511 cases, including restrictions on supplemental expert opinions as to the ’820 patent, while permitting experts to address issues unique to newly-accused products; and (ii) that discovery taken and provided in the 507 and 511 cases may be used in the 475 and 476 cases, as applicable.

The parties also agree to consent to Magistrate Judge Mitchell for all purposes in the 475 and 476 cases, including trial. Additionally, Defendants agree that they will not move to transfer the 475 and 476 cases to a different venue.

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<sup>1</sup> CCE contends that constituent Civil Action No. 6:14-cv-251 (the “251 case”) involving Defendants Apple Inc., AT&T Mobility LLC, Cellco Partnership d/b/a Verizon Wireless, Sprint Solutions, Inc., Sprint Spectrum L.P., Boost Mobile, LLC, T-Mobile USA, Inc., and T-Mobile US, Inc. is not affected by the noted standing issue or, by extension, this Joint Motion. The 251 case was filed on April 7, 2014.

<sup>2</sup> The 475 and 476 cases already include, among other things, allegations of infringement under the ’820 patent concerning products not at issue in the 507 and 511 cases.

For the foregoing reasons, the parties to this Joint Motion submit that good cause exists for granting the requested dismissals, without prejudice. Doing so resolves a significant, disputed issue in the most efficient way possible and without involving the Court in unnecessary motion practice. A proposed Order accomplishing the dismissals of the 507 and 511 cases, without prejudice, is submitted with this Joint Motion for the Court's consideration and entry.

**Dated: June 24, 2016**

**Respectfully submitted,**

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**CERTIFICATE OF CONFERENCE**

In accordance with Local Rule CV-7(h), the undersigned certifies that counsel for CCE conferred with counsel for all Defendants to the affected Civil Actions. The Parties making this motion are in agreement as to the relief sought and, therefore, jointly bring it. The non-moving Defendants, namely Sprint Solutions, Inc., Sprint Spectrum L.P., and Boost Mobile, LLC, do not oppose the motion.

*/s/ Edward R. Nelson III*

**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing was served on all parties of record on June 24, 2016 via the Court's CM/ECF system.

*/s/ Edward R. Nelson III*